

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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L.I.S.T., INC., On Behalf of Itself and All	:	Civil Action No. 7:05-CV-02189-CM
Others Similarly Situated,	:	
	:	<b><u>ELECTRONICALLY FILED</u></b>
Plaintiff,	:	
	:	<b><u>CLASS ACTION</u></b>
vs.	:	
VEECO INSTRUMENTS, INC., et al.,	:	
	:	
Defendants.	:	
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ROY P. KERSHAW, Individually and On	:	Civil Action No. 7:05-CV-02929-CM
Behalf of All Others Similarly Situated,	:	
	:	<b><u>CLASS ACTION</u></b>
Plaintiff,	:	
	:	
vs.	:	
VEECO INSTRUMENTS, INC., et al.,	:	
	:	
Defendants.	:	
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NOTICE OF MOTION AND MOTION TO APPOINT NECA-IBEW PENSION FUND (THE  
DECATUR PLAN) AS LEAD PLAINTIFF, TO APPROVE LEAD PLAINTIFF'S CHOICE OF  
LEAD COUNSEL PURSUANT TO §21D(a)(3)(B) OF THE SECURITIES EXCHANGE ACT  
OF 1934, AND TO CONSOLIDATE RELATED ACTIONS PURSUANT TO RULE 42 OF  
THE FEDERAL RULES OF CIVIL PROCEDURE

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE that Veeco Instruments, Inc. institutional investor NECA-IBEW Pension Fund (The Decatur Plan) (“NECA”) will hereby move this Court on a date and at such time as may be designated by the Court, at 300 Quarropas Street, Room 533, White Plains, New York 10601-4150 for an order: (1) appointing NECA as lead plaintiff and approving its choice of Lerach Coughlin Stoia Geller Rudman & Robbins LLP (“Lerach Coughlin”) as lead counsel pursuant to §21D(a)(3)(B) of the Securities Exchange Act of 1934 (“the Exchange Act”), as amended by the Private Securities Litigation Reform Act of 1995 (the “PSLRA”); and (2) consolidating the following related actions pending in this District pursuant to Rule 42 of the Federal Rules of Civil Procedure:

<b>CASE TITLE</b>	<b>CIVIL ACTION NO.</b>	<b>DATE FILED</b>
<i>L.I.S.T., Inc. v. Veeco Instruments, Inc., et al.</i>	7:05-cv-02189-CM	02/15/05
<i>Kershaw v. Veeco Instruments, Inc., et al.</i>	7:05-cv-02929-CM	03/16/2005

This Motion is made on the grounds that NECA timely filed this Motion, suffered the most significant financial loss resulting from the misconduct alleged, and qualifies as the “most adequate plaintiff” under §21D of the Exchange Act. In sum, NECA has the most substantial financial interest in the relief sought by the class, and meets the requirements of Rule 23 of the Federal Rules of Civil Procedure because its claims are typical of the claims of the class and it will fairly and adequately represent the interests of the class.

Further, NECA has selected and retained the law firm of Lerach Coughlin, a national law firm with extensive experience in prosecuting securities fraud actions, to serve as lead counsel. NECA, thus, seeks this Court’s approval of its selection of Lerach Coughlin as lead counsel pursuant to 15 U.S.C. §78u-4(a)(3)(B)(v).

NECA also seeks consolidation under Rule 42(a) of the Federal Rules of Civil Procedure of the related class action cases pending in this District on the grounds that the actions are substantially similar because each alleges claims based upon the same factual allegations and consolidation of these cases will promote efficiency.

This Motion is based upon the instant Motion, the memorandum of law in support thereof, the Declaration of Mario Alba, Jr., the pleadings and other files herein, and such other written or oral arguments as may be permitted by the Court at the hearing of this Motion.

DATED: April 18, 2005

LERACH COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP  
SAMUEL H. RUDMAN (SR-7957)  
DAVID A. ROSENFELD (DR-7564)  
MARIO ALBA, JR. (MA-7240)

*/s/ Mario Alba, Jr.*

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MARIO ALBA, JR.

200 Broadhollow Road, Suite 406  
Melville, NY 11747  
Telephone: 631/367-7100  
631/367-1173 (fax)

[Proposed] Lead Counsel for Plaintiffs

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DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 401 B Street, Suite 1600, San Diego, California 92101.

2. That on April 18, 2005, declarant served the **NOTICE OF MOTION AND MOTION TO APPOINT NECA-IBEW PENSION FUND (THE DECATUR PLAN) AS LEAD PLAINTIFF, TO APPROVE LEAD PLAINTIFF'S CHOICE OF LEAD COUNSEL PURSUANT TO §21D(a)(3)(B) OF THE SECURITIES EXCHANGE ACT OF 1934, AND TO CONSOLIDATE RELATED ACTIONS PURSUANT TO RULE 42 OF THE FEDERAL RULES OF CIVIL PROCEDURE** by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 18, 2005, at San Diego, California.

*/s/ Diana L. Houck*

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DIANA L. HOUCK

VEECO INSTRUMENTS (SDNY)

Service List - 4/18/2005 (05-0043N)

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**Counsel For Defendant(s)**

Robert F. Serio

Gibson, Dunn & Crutcher LLP

200 Park Avenue, 47th Floor

New York, NY 10166-0193

212/351-4000

212/351-4035(Fax)

**Counsel For Plaintiff(s)**

Jonathan M. Plasse

Christopher J. Keller

Shelley Thompson

Goodkind Labaton Rudoff & Sucharow LLP

100 Park Avenue, 12th Floor

New York, NY 10017-5563

212/907-0700

212/818-0477(Fax)

Samuel H. Rudman

David A. Rosenfeld

Mario Alba, Jr.

Lerach Coughlin Stoia Geller Rudman &  
Robbins LLP

200 Broadhollow Road, Suite 406

Melville, NY 11747

631/367-7100

631/367-1173(Fax)

Eric J. Belfi

Murray, Frank & Sailer LLP

275 Madison Avenue, Suite 801

New York, NY 10016

212/682-1818

212/682-1892(Fax)